

Personnel Policies and Procedures Manual for the City of Enid

Preface:

This manual is intended to provide information about employment policies for employees of the City of Enid. These policies are condensed into an employee handbook that will be provided to each employee. It is the responsibility of each employee to become familiar with the material contained in the handbook and refer to the manual for more detail. The manual in its entirety will be available in each division of the City of Enid and on file in the Human Resources Department. The manual can also be located on the City of Enid's website at www.enid.org. The manual will be updated periodically, and employees will have access to updates as they are issued.

The purpose of this manual is to establish policies that will serve as a guide to administrative action concerning various personnel activities and transactions. They may be changed, modified, rescinded, or suspended, from time to time, with or without notice. These policies and procedures do not constitute enforceable rights by City employees, create a property interest, nor do they constitute a substantive modification or restriction on the City Manager's right to terminate or discipline any employee for the good of the service. This manual supersedes all previous publications pertaining to personnel policies.

These policies and guidelines apply to the classified and unclassified service as defined herein or specifically provided otherwise.

These rules and regulations shall apply to Fire Department and Police Department employees in all conditions not in conflict with the rules and regulations of the Fire Civil Service and Police Civil Service. In case of conflict Civil Service rules shall apply. All employees of the Police and Fire Departments who are not Civil Service employees will be subject to the rules and regulations outlined in the City's Personnel manual.

In the event of any conflict between the provisions of this manual and the provisions in any applicable collective bargaining agreement, the collective bargaining agreement shall govern in all cases with respect to employees covered by such agreement that is not in conflict with the rules and regulations of the Fire Civil Service, Police Civil Service, and the city charter.

102. Equal Opportunity Employment Policy:

It is the policy of the City of Enid to provide equal employment opportunities to all persons, regardless of race, color, religion, age, sex, national origin, or a disability.- The City will make reasonable accommodation to individuals with physical and mental impairments, which do not create an undue hardship. This policy will apply to all aspects of City government including but not limited to recruitment, selection, compensation (salary and other benefits), promotion, training, and educational opportunities, transfers, layoffs, rehire rights, leaves of absence and access to City programs, services and activities.

103. Ongoing Implementation/Responsibilities:

The City Manager shall be responsible for ensuring that subordinate managers and Department Heads promote measures to overcome attitudinal barriers, receive the necessary training and feedback concerning equal opportunity employment, and encourage commitment to the program.

104. Personnel Practices and Policies

1. Recruitment

The City shall actively recruit as an equal opportunity employer through:

- A. Posting full-time regular status job openings in City offices and informing applicants of job description, qualifications, and salary information. These openings shall be posted a minimum of one week prior to filling the position. If a similar opening has been recruited within the past 90 days and there remains an adequate applicant pool, it will not be necessary to post the position provided the position is filled from the existing applicant pool for that position or a similar position. (The term "similar" means two positions that require the same general skills, training, and/or education).
- B. For highly specialized/skilled positions, the City should place ads in periodicals that will encourage minorities and women to apply for positions.
- C. In all advertisements and City brochures, the City will be identified as an equal opportunity employer to encourage all protected individuals to make application for City jobs.

2. Job Qualifications and Testing

The Human Resources Director shall ensure that the essential functions of each job are properly established as well as any minimum qualifications, productivity/performance standards, and relevant working conditions. In addition, he shall ensure that the necessary screening, evaluations, and test of employee fitness and past experience are job related and consistent with business necessity and to the extent possible, free of any discriminatory effect. For qualified individuals with disabilities, the Human Resources Director shall ensure that the application and testing process does not eliminate any individuals for factors not associated with the essential functions of the job.

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3. Employee Development

Employees who have upgraded their skills through training and development programs should have first priority for consideration of openings of a higher level consistent with their skills. To the extent that the City provides such development and training, it shall ensure equal opportunity for such development and training opportunities. The second priority for consideration will be new hires.

4. Reclassification

When for the good of the service it is appropriate to reclassify positions and/or reorganize departments to update programs and procedures, employee reclassifications and/or transfers may be implemented. Any new position created by a reorganization that is not filled by an employee affected by the reorganization shall be posted.

5. Salary and Benefits

The City shall ensure that all employees are compensated without discrimination on the basis of sex, minority status, age, or disability. Pay should be inspected periodically to insure equity both externally and internally. The City shall also ensure that any benefits meet the same test on nondiscrimination.

6. Exit Interviews

The Human Resources Director shall provide each terminating employee with an exit interview to ascertain whether real or imagined discrimination was a factor or a perceived factor in their separation.

105. Americans with Disabilities (ADA) and Related Laws

The City shall ensure that its equal opportunity employment policies are applicable to persons with disabilities and shall do nothing to discriminate against a qualified individual with a disability in employment related concerns. The definition of someone with a disability is someone with a physical/mental impairment which substantially limits one or more major life activities: someone who has a record of such impairment; someone who is regarded as having an impairment whether or not they do, due to myths, fears, or stereotypes. In order to be protected by ADA, the individual with the disability must be otherwise qualified to do the essential job functions and not pose a direct threat to the health or safety of himself, other persons, or the public, due to the nature of the essential job functions. The Human Resources Director will work closely with the City Manager, City Attorney and other key persons to ensure that ADA is being complied with in all aspects, not limited to reasonable accommodation, testing, job descriptions, removal of barriers, etc.

106. Sexual Harassment and Hostile Work Environment:

Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature are violations of the law and City policies. Hostile work environment can be more than a sexually hostile or intimidating environment. Such hostile and intimidating environment can also be applicable for a racially hostile environment or an environment that constantly belittles with jokes, innuendo, and epithet those protected by age, sex, race, national origin, religion, handicapped status, etc. The same requirements that prohibit retaliation and coercion apply to all Title VII and ADA claims.

In an effort to prevent harassment or a hostile work environment the city will affirmatively raise the subject, express strong disapproval, develop appropriate sanctions, and inform employees of their right to rise and how to raise the issue of harassment under Title VII. The City will develop methods to sensitize all concerned and take all other steps necessary to prevent sexual harassment, including offering periodic educational classes.

107. Applicant Complaint Procedure:

If a prospective employee feels that he has been discriminated against, he shall file a complaint in writing with the City Manager or Human Resources Director who will conduct an investigation of the complaint and report back to the person making the complaint, and make any recommendations for corrective action if necessary.

1. Investigation and Resolution

The City Manager or Human Resources Director shall conduct a preliminary investigation and make an effort to reconcile the parties involved within twenty (20) days after the complaint has been filed. Nothing in the above procedure limits the City from using mediation to attempt to settle the dispute.

108. Contagious Diseases

Persons with AIDS, AIDS-related complex (ARC) or who have tested positive for the AIDS virus (seropositive for HIV) are protected under the ADA, because of its contagious nature or perceived contagious nature by society, and because it substantially impairs the function of procreation.

Procedures: The City will make the necessary accommodations in job assignment, etc., for individuals with contagious diseases or with perceived contagious diseases based on medical findings of risk and contagion.

109. Other Evaluation Procedures

The Human Resources Director shall maintain the statistics and prepare the affirmative action report as required above. The Human Resources Director will work with the City Manager to develop reporting and feedback concerning supervisory accountability relative to equal employment opportunity.

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7. Cover-up or false statements or records
8. Prior safety record if applicable
9. Violation of a "Condition of Employment," mandatory referral, or other agreement.

1106. Disciplinary Reasons

The Department Head may recommend suspending, demoting, or discharging an employee for any of the following or other reasons:

1. Insubordination

Gross neglect of duty or refusal to comply with management's lawful instructions, unless such instructions are injurious to employee's or general public's health or safety or contrary to the employee's professional ethics; it also includes violation of, refusal, or inciting others not to comply with pertinent departmental or City rules and regulations when such conduct impairs the efficiency of the City service.

2. Destruction

Negligent misuse, willful or malicious damage, or destruction to City property or property of others.

3. Theft

Theft or misappropriation of City property or attempted theft of misappropriation or making false claims for compensation.

4. Unlawful Conduct

Conviction of a felony, or any criminal misconduct on or off duty involving moral turpitude or conduct that shocks the conscience of the community or brings the City's good name into disrepute because the conduct is public.

5. Disorderly/Offensive Conduct

Disorderly or offensive conduct while on duty; disgraceful or offensive conduct while on or off duty, when such behavior threatens public respect for the City service, or the public order, safety, or health.

6. Deliberate Discourtesy to the Public

Including, but not limited to, the use of profanity or provoking arguments.

7. Attendance

Habitual tardiness, unauthorized or excessive absence or abuse of sick leave, falsification of leave usage.

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8. Acceptance of a Gift or Fee

Acceptance of a Gift or Fee or other valuable thing in the course of or in connection with work for personal use from any person or group of persons when such gift or other valuable thing is received in exchange for a favor or better treatment than accorded other persons in the performance of his official duties.

9. Improper use of Authority

Use of official position or authority for personal profit or advantage. Inducing or attempting to induce any employee in the service of the City to commit an unlawful act or to act in violation of any lawful departmental official regulations, order or professional ethics.

10. Disclosure of Protected Health Information

No employee with access to protected health information concerning any other employee shall disclose such information without full written disclosure authorization from the affected employee. Nor should employees or supervisor's use such protected health information in determining employment related issues without full written disclosure authorization from the affected employee. No employee with access to protected health information protected by HIPAA shall intentionally or unintentionally allow an unauthorized persons access to such information. Protected health information shall include, but not be limited to, information concerning an employee's medical diagnosis, cost of treatment, health insurance deductions or other information that may specifically identify any employee's health status. Worker's Compensation information is exempt from HIPPA requirements and therefore, not covered under this provision.

11. Confidentiality

Discussing with unauthorized persons any confidential information gained through employment with the City.

12. Falsification of Records

Falsification of Records including providing false information on application records or papers, time records, making false claims against the City, false allegations of any kind, or other actions taken to misrepresent the facts of an occurrence to City officials.

13. Ethical, Moral or Other Conduct Unbecoming a City Employee

14. Being Under the Influence

Being under the influence or in the possession of intoxicants or drugs while on duty, or while in any City vehicle. (See City's Drug and Alcohol Policy).

15. Unreasonable Failure to Follow any Safety Policy

Unreasonable failure to follow any safety policy, rule or regulation; gross negligence in the performance of duties; or any conduct that would place the employee, citizens or fellow employees or City property at risk, unnecessarily resulting or potentially resulting in claims for damages against the City; including the provoking of or instigating of a fight during working hours or on City premises; being a direct threat to the health or safety of oneself, the public or fellow employees.

16. Smoking in unauthorized areas

17. Vending, soliciting, or collecting contributions on the employer's time or premises without prior authorization from the Department Head.

18. Discrimination

Discrimination against an employee because of religion, age, sex, race, color, national origin, physical or mental disability, or other protected status. Discrimination shall also include any retaliation or coercion against an employee for filing a discrimination complaint or testifying before any administrative hearing.

19. Harassment, sexual or otherwise

Harassment, sexual or otherwise either with a subordinate, colleague, fellow employee or in the context of the work or creating or allowing any hostile working environment.

20. Loss or failure to obtain appropriate license or certificates

Loss or failure to obtain appropriate license or certificates that is necessary requirements to the function of the job, or is requirements for original appointment to the job.

21. Job Abandonment

Any employee who does not report to work for two consecutive shifts or days and does not call or have valid reason not to report or call shall be deemed to have resigned from his/her position due to job abandonment.

22. Failure to maintain "conditions of employment" or "employment eligibility."

23. Failure or inability to adequately perform one's job due to lack of effort, aptitude, or substandard performance.

24. Email, Computer & Internet Use

Use of computer resources for any of these activities is strictly prohibited:

Sending, downloading, displaying, printing or otherwise disseminating material that is sexually explicit, profane, obscene, harassing, fraudulent, racially offensive, defamatory, or otherwise unlawful;

Accessing unauthorized information;

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Disseminating or storing commercial or personal advertisements, solicitations, promotions, destructive programs (that is, virus or self-replicating code), political information, or any other unauthorized material;

Logging into the computer system at an unauthorized terminal;

Wasting computer resources by, among other things, sending mass mailings or chain letters, spending excessive amounts of time on the Internet, playing games, engaging in online non-city related chat groups, or otherwise creating unnecessary network traffic;

Using or copying software in violation of a license agreement or copyright;

Violating any state, federal, or international law;

Failing to report unauthorized computer resources for any prohibited activities.

These provisions do not apply to police officers acting in their official capacity.

1107. Other offenses that lead to lesser discipline upon first offenses

(Repeated instances will result in progressive discipline and may result in termination).

1. Violations of policy or procedure

Violations of policy or procedure when proof exists, that the employee had no knowledge or reason to have knowledge of the infraction.

2. Minor first offense violations of policy or procedure,

Not considered a safety violation or involving damage to or loss of City equipment, property, material, or supplies, or any injury to any person.

3. Substandard performance,

Unless repeated or after the employee is placed on some form of probation.

4. Minor attendance problems, including observance of work hours.

5. Nonconformance, with acceptable dress codes.

6. Nonsupport, of work routines.

7. Non-supportive actions or discourteous attitude in dealing with public or other employees.

8. Minor insubordination, which does not challenge the Department Head's authority.

9. Declining performance: Provided it is accompanied by supervisory written assessment and plan for improvement.

10. Minor violations of safety precautions or policies, where there is no loss of property, injury or any potential for claim.

11. Misuse of City equipment, property, materials, or supplies, which does not lead to any loss or potential loss or misappropriation.

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12. Minor damage to City equipment or property not due to gross negligence, intoxication, or horseplay.
13. Not reporting violation of policy or procedure seen or having first hand knowledge. However, if one can prove supervisory retaliation or other coercion to be the reason for not reporting, this may be ground for lesser discipline.
14. Failure to become knowledgeable, of policies, procedures, or work routines/processes.
15. Conviction of a misdemeanor, including minor traffic offenses on the job. A plea of "nolo contendere" is tantamount to a conviction. A plea bargain from a felony may not fall within this category based on the seriousness of the offense and "conduct unbecoming" definition.
16. Violation of traffic laws, parking ordinance, or noncompliance with accepted traffic safety practices.
17. Any item in 1105 which, due to the facts of the case and employee work history would be less than a suspension.
18. Any prohibition as listed in Section 1400.

1108. Authority to Suspend/Length of Suspension

1. Procedures

A Department Head may recommend a suspension of up to thirty (30) working days for any offense listed in Section 1105.

The suspension notice will include the specific charges, the duration and date of when the suspension is to be imposed, and the specific reason for the action.

2. Summary Suspension

When it is deemed for the good of the service by the City Manager to immediately remove an employee from his position with pay because he is a danger to the public, fellow employees, or to the City, a summary suspension may be issued prior to finalizing the investigation. When the investigation is complete, the employee will be given a statement of charges and an opportunity to respond to them in a meeting before the Review Panel pursuant to Section 1109.

Section 1200 Grievance Procedures

1201. Grievance Procedures/Definition

A grievance is defined as any dispute regarding the meaning, interpretation, application, or alleged violation of the terms and provisions of the existing Personnel Manual or any personnel policy, rule, or regulation or the unfair administration of benefits or conditions of employment.

A grievance can also allege discrimination due to race, color, sex, age, religion, national origin, marital status, harassment, or disability, or any retaliation or coercion because of filing a complaint or testifying in any proceedings.

It may include actions caused by a reduction in work force, rates of pay, performance ratings, employee benefits, or position classification. It is the responsibility of Department Heads and the City Manager to ensure adherence to this policy.

1. Reporting

Employees who have any grievance shall have the right to have the matter heard by their immediate supervisor, by their department head, by an administrative staff person up to and ending with the City Manager, in the order named, until the complaint is settled. The grievance must be in writing. However, for grievances that involve the immediate supervisor, department head, or administrative staff person, the employee may file a grievance with the Human Resources Director, Administrative Staff person, City Attorney, City Manager, or Mayor of the City of Enid at the lowest level appropriate. See supervisory bypass procedure 1202.

2. Time limits

Time limits given in the grievance procedure are intended to ensure prompt and thorough action. Any of the time limits specified in the procedure may be extended by mutual written agreement of the parties involved. Absent such mutual extension, all time limits shall be strictly observed. Failure by management to process the grievance within the specified time allows the grievance to proceed to the next step. Failure by the employee indicates acceptance at the lower step.

3. Procedural Steps

Step I. Employee submits an informal verbal grievance to the Department Head within five working days of knowledge of the violation or circumstances giving rise to the grievance. The Department Head has two working days following the discussion to provide an informal verbal response. If not satisfied, the employee may pursue the steps that follow.

3. Drug free Workplace

In addition, it is a violation of the City's Drug Free Workplace policies to be engaged in the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance in the work place or are under the influence of such substances at the workplace.

Controlled substances include, but are not limited to:

- A. Narcotic drugs
- B. Marijuana
- C. Amphetamines
- D. Barbiturates
- E. LSD and similar hallucinogens
- F. Cocaine, heroin, etc.

In addition, and as a condition of employment an employee is required to notify his immediate superintendent within five (5) days of a criminal drug conviction, or a charge of driving under the influence, driving while impaired, driving under suspension or driving under revocation. Failure to notify in five days will subject the employee to disciplinary action up to discharge.

4. Drug and Alcohol Testing

Based on an articulable suspicion, an employee may be required to undergo testing for the presence of such controlled substances and alcohol. Such testing must be requested by the Department Head and authorized by the City Manager or designee. However, for law enforcement personnel, and safety sensitive employees random testing may be required. See Addendum 1 for City and EPTA policy on drug and alcohol testing and drug free workplace and/or collective bargaining agreements.

1410. Discrimination

No person in the employment of the City shall discriminate in appointment, promotion, demotion, or dismissal of any person because of race, color, sex, age, political or religious opinion or affiliation, or national origin, marital or veteran status, or physical or mental disability.

1411. Sexual Harassment, Hostile Work Environment and Whistleblower Procedures

1. Definition

Harassment on the basis of sex is a violation of Section 703 Title VII of the Civil Rights Acts. Unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature constitute sexual harassment when (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, (2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual, or (3) such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

Generally sexual harassment is any unwelcome sexual advance, either verbal or physical. Verbal harassment includes sexual comments, suggestions, jokes or innuendoes, leering, ogling, or obscene gestures. Physical harassment includes deliberately touching another person in a sexual manner such as brushing against someone's body, patting, squeezing or pinching as well as making sexual relations a condition for hiring, advancement, retaining a position or other personnel action. Because of the potential for sexual harassment charges by fellow employees when an employee in a supervisory capacity dates a subordinate, any dating or more serious relationship of a Supervisor and a subordinate is strongly discouraged.

2. Procedure

City employees are prohibited from sexual harassment of co-workers, subordinates, customers, clients, vendors, prisoners or members of the public. Cases of sexual harassment should be reported immediately to the immediate Department Head by the victim or person witnessing the harassment. Disciplinary action is appropriate for the behavior engaged in by the offending employee.

Department Heads should make every effort to ensure that sexual harassment does not occur in their departments and are responsible for advising their employees as to what behavior constitutes sexual harassment and that such behavior is prohibited. In cases where an employee, co-worker, customer, client, vendor, prisoner, or member of the public makes a complaint of sexual harassment, the department head or other knowledgeable employee must immediately forward such information, preferably in written format, to the Human Resources Director, City Attorney or City Manager. In the event an employee, subordinate, customer, vendor, client, prisoner or other member of the public has made a complaint that is not being addressed by the immediate Department Head, or where the harassment involves the immediate Department Head, the complaint should be referred to the next level of supervision, the Human Resources Director or the City Manager.

3. Procedure

A. In determining whether alleged conduct constitutes sexual harassment, the Human

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Resources Director, City Attorney or other person appointed by the City Manager or Mayor and Board of Commissioners (hereinafter "investigator") will look at the record as a whole and at the totality of the circumstances, such as the nature of the sexual advances and the context in which the alleged incidents occurred. The determination of the charges, if any, resulting from a particular action will be made from the facts on a case-by-case basis.

- B. Applying general Title VII principles, the City is responsible for its acts and those of its agents and supervisory employees with respect to sexual harassment regardless of whether the specific acts complained of were authorized or even forbidden by the employer and regardless of whether the employer knew of or should have known of their occurrence. The investigator will examine the circumstances of the particular employment relationship and the job functions performed by the individual acts in either a supervisory or agency capacity.
- C. With respect to conduct between fellow employees, an employer is responsible for acts of sexual harassment in the workplace where the employer (or its agents or supervisory employees) knows or should have known of the conduct, unless it can show that it took immediate and appropriate corrective action. Therefore, all matters should be immediately brought to the attention of the City Attorney, Human Resources Director, and/or the City Manager.
- D. An employer may also be responsible for the acts of non-employees, with respect to sexual harassment of employees in the workplace, where the employer (or its agents or supervisory employee) knows or should have known of the conduct and fails to take immediate and appropriate corrective action. In reviewing these cases the investigator will consider the extent of the employer's control and any other legal responsibility, which the employer may have with respect to the conduct of such non-employees.
- E. In an effort to prevent sexual harassment, the city of Enid will affirmatively raise the subject, express strong disapproval, develop appropriate sanctions, inform employees of their right to raise and how to raise the issue of harassment under Title VII, and develop methods to sensitize all concerned and take all other steps necessary to prevent sexual harassment, including offering periodic educational classes.